

Message Text

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13-12
ORIGIN PM-04

INFO OCT-01 ARA-06 IO-13 ISO-00 FEA-01 ACDA-07 CIAE-00

INR-07 L-03 NSAE-00 NSC-05 EB-07 NRC-05 OES-06

DODE-00 ERDA-05 SS-15 SP-02 NSCE-00 SSO-00 USIE-00

INRE-00 /087 R

DRAFTED BY PM/NPO:GWHEISER:JMM

APPROVED BY PM/NPO:LVNOSENZO

ACDA - MR. VAN DOREN

S/P - MR. KALICKI(SUBS)

OES - MR.ADLER (SU0S)

IO/SCT - MR. CAVANAUGH

ERDA - MS. MCFADDEN

C-MR. FUERTH(SUBS)

S/S - MR. REDDY

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O 172238Z SEP 76

FM SECSTATE WASHDC

TO AMCONSUL RIO DE JANEIRO IMMEDIATE

INFO USMISSION IAEA VIENNA IMMEDIATE

C O N F I D E N T I A L STATE 231138

E.O. 11652:GDS

TAGS:TECH, PARM, IAEA

SUBJECT: IAEA DRAFT FULL SCOPE SAFEGUARDS AGREEMENT FOR
NON-NPT STATES -- - OR

FOR KRATZER AND STONE

1. MISSION HAS ADVISED DEPARTMENT THAT SECRETARIAT IS
TAKING COPIES OF DRAFT FULL-SCOPE SAFEGUARDS AGREEMENT FOR
NON-NPT STATES TO RIO AND DG IN HIS GENERAL CONFERENCE
SPEECH PLANS TO MENTION AGENCY'S WILLINGNESS TO CONSULT
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WITH ANY STATE CONSIDERING ACCEPTANCE OF FULL-SCOPE

SAFEGUARDS.

2. DEPARTMENT HAS ADVISED MISSION TO PROVIDE USG COMMENTS INFORMALLY TO SECRETARIAT. COMMENTS ON THE DRAFT AGREEMENT FOLLOW: -

A. ARTICLE 8(A). IF THE AGENCY IS TO SAFEGUARD FACILITIES PER SE, THEN THE AGENCY NEEDS DESIGN INFORMATION RELEVANT TO THE SAFEGUARDING OF THE FACILITY AS WELL AS THE NUCLEAR MATERIAL IN IT.

B. ARTICLE 12(B). THIS PARAGRAPH WOULD SEEM TO REQUIRE THE ADDITION OF PROVISIONS TO ARTICLES 92-94 TO NOTIFY THE AGENCY OF INTENDED TRANSFERS OF RELEVANT TECHNOLOGICAL INFORMATION (ARTICLE 98.Q) OUT OF THE STATE.

C. ARTICLE 12(C). SENTENCE SHOULD BE REWORDED TO COVER ANY TRANSFER.

D. ARTICLE 26. THIS ARTICLE APPLIES TERMINATION PROVISIONS ON IMPORTED NUCLEAR MATERIAL AND FACILITIES OF RECENT TRILATERAL SAFEGUARDS AGREEMENTS TO ALL NUCLEAR MATERIALS AND FACILITIES WHETHER IMPORTED OR PRODUCED INDIGENOUSLY. THE 25-YEAR MINIMUM DURATION IS MORE STRINGENT THAN RECENT TRILATERALS ONLY WITH RESPECT TO INDIGENOUS NUCLEAR MATERIALS AND FACILITIES. IT DOES NOT PROVIDE FOR THE CONTINUATION OF SAFEGUARDS ON NUCLEAR MATERIAL DERIVED FROM IMPORTED SPECIFIED MATERIAL AND EQUIPMENT EXCEPT TO THE EXTENT THAT THE EQUIPMENT OR MATERIAL HAS BEEN PERMANENTLY INCORPORATED INTO A FACILITY PRIOR TO TERMINATION. THE SEVERITY OF ARTICLE 26 MAY BE PART OF THE AGENCY'S PLANNED NEGOTIATING FLEXIBILITY.

E. ARTICLE 30. CONSIDERATION SHOULD BE GIVEN TO ADDING TO THE AGENCY'S TECHNICAL CONCLUSION A STATEMENT REGARDING EACH NUCLEAR FACILITY (OR MATERIAL BALANCE AREA) PER SE AS WELL AS NUCLEAR MATERIAL, IN RECOGNITION OF UNDERTAKING IN ARTICLES 1 AND 2 REGARDING FACILITIES.

F. ARTICLE 74(F). THIS IS ONE OF SEVERAL INSTANCES
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WHERE REFERENCE TO FACILITIES HAS BEEN INTRODUCED BUT WITHOUT ADEQUATE ADJUSTMENT OF OTHER ARTICLE. IN THIS INSTANCE THE DRAFT FAILS TO INCLUDE A REQUIREMENT FOR SUBMISSION OF REPORTS ON FACILITY STATUS BUT REQUIRES FACILITY STATUS VERIFICATION UNDER THIS ARTICLE.

G. ARTICLE 76(A). THIS ARTICLE
MAKES NO PROVISION FOR ACCESS TO FACILITIES WHERE NUCLEAR

MATERIAL IS NOT REPEAT NOT REPORTED, WHEREAS ARTICLE 71(A) HAS INTRODUCED RIGHT OF AGENCY (NOT IN INFCIRC/153) TO VERIFY INFORMATION REGARDING FACILITIES PER SE.

H. ARTICLE 92.

THIS ARTICLE SHOULD BE AMENDED TO REQUIRE NOTIFICATIONS OF TRANSFERS OUT OF STATE OF SPECIFIED EQUIPMENT AS ARTICLE 12(A) STATES.

I. ARTICLE 98.J. REFERENCES IN SUB-PARAS (A)(II) AND (B)(II) TO NON-SAFEGUARDED (NON-PEACEFUL) ACTIVITY SEEM INAPPROPRIATE IN VIEW OF ARTICLE 1 UNDERTAKING.

J. ARTICLE 2(B). DELETE FROM SECOND SENTENCE WORDS

"WHICH HAS BEEN REPROCESSED AND". ARTICLE XII.A.5. OF IAEA STATUTE IS NOT SO LIMITED, AND THIS DELETION WILL PRESERVE THE OPTION OF REQUIRING THE DEPOSIT OF SPENT FUEL.

K. ARTICLE 2(B). IN THIRD SENTENCE, DELETE THE WORDS "UPON DETERMINATION THAT IT IS REQUIRED FOR USE IN RESEARCH PROJECTS OR NUCLEAR REACTORS EXISTING OR UNDER CONSTRUCTION, SPECIFIED BY....." AND INSERT THE WORDS "IN ACCORDANCE WITH THE AGREEMENT UNDER WHICH IT IS DEPOSITED." THIS SUBSTITUTE WORDING WILL AVOID PREJUDGING THE MOST SENSITIVE ASPECTS OF THE INTERNATIONAL DEPOSIT ARRANGEMENT, NAMELY, THE TERMS ON WHICH THE MATERIAL WILL BE RETURNED. THIS CAN BE WORKED OUT IN A MODEL AGREEMENT AND IMPLEMENTED BY A SPECIFIC DEPOSIT AGREEMENT BETWEEN THE AGENCY AND THE STATE.

L. ARTICLE 5(B)(I). INSERT AFTER WORDS "PUBLISH OR" CONFIDENTIAL

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THE WORDS "(EXCEPT AS AUTHORIZED BY.....)". THIS CHANGE WILL ESTABLISH A MECHANISM BY WHICH THE SUPPLIER CAN REQUIRE RECIPIENT TO LET IAEA FURNISH THE SUPPLIER WITH INFORMATION. UNDER SUCH ARRANGEMENTS, THE RECIPIENT COULD AUTHORIZE THE IAEA TO DIVULGE INFORMATION TO THE SUPPLIER.

3. ADDITIONALLY, MR. BORIGHT WILL ARRIVE IN RIO WITH COPIES OF THE USG COMMENTS ON THIS DRAFT AGREEMENT FOR YOUR USE.

ROBINSON

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Message Attributes

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Margaret P. Grafeld
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